

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:07-cr-0104-WKW
	)	
NORMAN EVANS MCELROY, JR.	)	

**ORDER**

This case is before the court on the defendant's Unopposed Motion to Continue Trial (Doc. # 23). The criminal case is currently set for trial during the November 5, 2007 term. For the reasons set forth below, the Court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." *Id.* § 3161(h)(8)(A).

The Court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and the defendant in a speedy trial. In support of his motion to continue the trial, the defendant represents that, while a forensic analysis of two computers has just recently been completed and received by the Government, the analysis is not presently available to the defendant and additional time is needed for the defendant to review the voluminous reports (in excess of

10,000 pages if printed) in order to determine whether this matter may be resolved without a trial or to otherwise prepare for trial. The Government does not oppose a continuance.

Accordingly, it is ORDERED that the defendant's Unopposed Motion to Continue Trial (Doc. # 23) is GRANTED. Trial in this matter is continued from the November 5, 2007 trial term, to the criminal term of court beginning **February 4, 2008**. The Magistrate Judge shall conduct a pretrial conference prior to the **February 4, 2008**, trial term and enter a pretrial conference order.

DONE this 10th day of October, 2007.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE